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1	Juanita Brooks (SBN 75934)				
2	FISH & RICHARDSON P.C. 12390 El Camino Real	·			
3	San Diego, California 92130-2081				
3	Telephone: (858) 678-5070 Facsimile: (858) 678-5099				
4	Attorneys for Plaintiffs/Declaratory Judgment Defendants				
5	UNITHER PHARMA, INC., THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY,				
6	and NEW YORK MEDICAL COLLEGE				
7	Daniel J. Bergeson (SBN 105439)				
8	Hway-Ling Hsu (SBN 196178) BERGESON, LLP				
9	303 Almaden Boulevard, Suite 500 San Jose, California 95110-2712				
	Telephone: (408) 291-6200				
10	Facsimile: (408) 297-6000				
11	Attorneys for Defendant/Declaratory Judgment Plaintiff HERBALIFE INTERNATIONAL, INC.				
12	ADDITIONAL COUNSEL LISTED ON SIGNATURE PAGE				
13					
14	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA				
15	SAN JOSE DIVISION				
16	UNITHER PHARMA, INC. and THE BOARD OF TRUSTEES OF THE	Case Nos. C 03-5090 JW and C 03-5878 JW			
	LELAND STANFORD JUNIOR UNIVERSITY,	STIPULATION OF DISMISSAL WITH			
17	Plaintiffs and Counter-Defendants,	PREJUDICE AND [PROPOSED] ORDER			
18	v.				
19	HERBALIFE INTERNATIONAL, INC.,				
20					
21	Defendant and Counter-Claimant.				
22	HERBALIFE INTERNATIONAL, INC.				
	Plaintiff and Counter-Defendant,				
23	v.				
24	UNITHER PHARMA, INC., THE BOARD OF				
25	TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY, and NEW YORK				
26	MEDICAL COLLEGE,				
27	Defendants and Counter-Claimants.				
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- 1			
1	It is hereby stipulated that related Civil Action Nos. C03-5090 JW and C03-5878 JW		
2	between Unither Pharma, Inc. ("Unither Pharma"), The Board of Trustees of the Leland Stanford		
3	Junior University ("Stanford"), New York Medical College ("NYMC") (collectively, "Plaintiffs")		
4	and Herbalife International Inc. ("Herbalife"), including all claims and counterclaims filed therein,		
5	are hereby dismissed pursuant to Fed. R. Civ. P. 41 (a) and 41(c).		
6	This dismissal is with prejudice, except that Herbalife shall retain the right to challenge the		
7	validity and enforceability of the patents-in-suit in the event of any future litigation initiated by		
8	any of the Plaintiffs or their successors or assigns against Herbalife, its manufacturers, distributors		
9	or customers invoking the patents-in-suit, whether or not such future litigation concerns the same		
10	or different accused products.		
11	Dated: November 7, 2006 FISH & RICHARDSON P.C.		
12	Bated. 140Veintoer 7, 2000		
13	By: /s/		
	Karen I. Boyd	-	
14	Karen I. Boyd (SBN 189808/boyd@fr.com)		
15	John M. Farrell (SBN 99649/farrell@fr.com)		
16	Limin Zheng (SBN 226875/zheng@fr.com)		
	Erin Dungan (SBN 227090/dungan@fr.com)		
17	FISH & RICHARDSON P.C.		
	500 Arguello Street, Suite 500		
18	Redwood City, CA 94063		
19	Telephone: (650) 839-5070		
	Facsimile: (650) 839-5071		
20	1 '4- D 1 - (ODN 75024/ 1 - OC)		
21	Juanita Brooks (SBN 75934/brooks@fr.com) FISH & RICHARDSON P.C.		
41	12390 El Camino Real		
22	San Diego, California 92130-2081		
	Telephone: (858) 678-5070		
23	Facsimile: (858) 678-5099		
24			
1	Attorneys for Plaintiffs		
25	UNITHER PHARMA, INC. AND THE		
26	BOARD OF TRUSTEES OF THE LELAND		
ا 20	STANFORD JUNIOR UNIVERSITY		
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1	Dated: November 7, 2006	BERGESON LLP FRIED, FRANK, HARRIS, SHRIVER &
2		JACOBSON LLP JONES DAY
3		
4		By: /s/
5		Stephen S. Rabinowitz
6		
7		Daniel J. Bergeson (SBN 105439) Hway-Ling Hsu (SBN 196178)
8		BERGESON, LLP 303 Almaden Boulevard, Suite 500
9		San Jose, California 95110-2712 Telephone: (408) 291-6200
10	·	Facsimile: (408) 297-6000
11		James W. Dabney (<i>pro hac vice</i>) Stephen S. Rabinowitz
12		FRIED, FRANK, HARRIS, SHRIVER &
13		JACOBSON LLP One New York Plaza
14		New York, New York 10004
15		Telephone: (212) 859-8000 Facsimile: (212) 859-4000
16	·	Laura A. Coruzzi (pro hac vice)
17		JONES DAY 222 East 41st Street
18		New York, New York 10017
19		Telephone: (212) 326-3939 Facsimile: (212) 755-7306
20		Attorneys for HERBALIFE
21		INTERNATIONAL, INC.
22		
23		
24		
25		
26		
27		
28		3 STIPULATION OF DISMISSAL WITH PREJUDICE AND PROPOSED ORDER Case Nos. C03-5090 JW, C03-5878 JW

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- 1	
1	IT IS SO ORDERED.
2	·
3	DATED: 11/08/2006
4	DATED:
5	The Hon. James Ware Unit d States District Judge
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DECLARATION OF CONSENT 1 2 I, Karen I. Boyd, hereby attest: Concurrence in the filing of the following document has been obtained from each 3 1. of the other signatories, which shall serve in lieu of their signatures on the document: 4 5 STIPULATION OF DISMISSAL WITH PREJUDICE AND [PROPOSED] ORDER 6 2. I shall maintain records to support this concurrence for subsequent production for 7 the Court if so ordered or for inspection upon request by a party until one year after final 8 resolution of the action pursuant to General Order 45 of the United States District Court for the 9 Northern District of California. 10 I declare under penalty of perjury under the laws of the State of California and the United 11 States of America that the foregoing is true and correct. Executed in Redwood City, California on 12 November 7, 2006. 13 Dated: November 7, 2006 14 FISH & RICHARDSON P.C. 15 16 By: 17 Attorneys for Plaintiffs 18 UNITHER PHARMA, INC., THE BOARD OF TRUSTEES OF THE LELAND STANFORD 19 JUNIOR UNIVERSITY, and NEW YORK MEDICAL COLLEGE 20 21 50382534.doc 22 23 24 25 26 27 5 28